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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/619,982	07/14/2003	David So	11385-3-999	7807
20583	7590	12/06/2005	EXAMINER	
JONES DAY			RODRIGUEZ, RUTH C	
222 EAST 41ST ST			ART UNIT	
NEW YORK, NY 10017			PAPER NUMBER	

3677

DATE MAILED: 12/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/619,982	Applicant(s) SO, DAVID	
	Examiner Ruth C. Rodriguez	Art Unit 3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3-7 and 16-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3-7 and 16-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 3-5, 7 and 16-18 are rejected under 35 U.S.C. 102(e) as being anticipated by Mehta (US D494,083 S).

A cut stone comprises a pavilion portion having a culet (Fig. 2), a crown portion having a table (Fig. 1) and a girdle separating the pavilion portion from the crown portion (Fig. 3). A plurality of pavilion main facets where each pavilion main facet extends from near the culet to the girdle (Figs. 2 and 3). The pavilion main facets vary in width (Figs. 2 and 3 if the width is taken from the girdle to the culet). The stone is a round cut (Figs. 1-3).

Mehta also disclose that:

- The pavilion main facets alternate in a clockwise direction between thick pavilion main facets and thin pavilion main facets (Figs. 2 and 3).

- The thick pavilion main facets are at least about 30 percent thicker than the thin pavilion main facets (Figs. 2 and 3). The thick pavilion main facets are at most about 60 percent thicker than the thin pavilion main facets (Figs. 2 and 3).

- The stone further comprises a table on the crown (Figs. 1 and 3). The crown has a plurality of bezel facets (Figs. 1 and 3). Each of the bezel facets has an upper vertex at the table and a lower vertex at the girdle (Figs. 1 and 3). The pavilion main facets terminate in an upper vertex at the girdle in substantial alignment with the lower vertex of a corresponding bezel facet of the crown (Fig. 3).

A method for cutting a stone comprises: (a) forming a crown portion (Fig. 1); (b) forming a pavilion portion including a culet (Fig. 2); (c) forming a girdle separating the crown portion from the pavilion portion (Fig. 3); and (d) forming a plurality of pavilion main facets on the pavilion portion (Fig. 2 and 3). The pavilion main facets vary in thickness (Figs. 2 and 3 if the width is taken from the girdle to the culet). Each pavilion main facet extends from near the culet to the girdle (Figs. 2 and 3). The stone is a round cut (Figs. 1-3).

The method further comprises forming the pavilion main facets with thicknesses alternating between thick pavilion main facets and thin pavilion main facets (Figs. 2 and 3).

The thick pavilion main facets are at least about 30 percent thicker than the thin pavilion main facets and at most about 60 percent thicker than the thin pavilion main facets (Figs. 2 and 3).

3. Claims 3, 7, 16, 21 and 22 are rejected under 35 U.S.C. 102(e) as being anticipated by Mehta (US D490,014 S).

A cut stone comprises a pavilion portion having a culet (Fig. 2), a crown portion having a table (Fig. 1) and a girdle separating the pavilion portion from the crown portion (Fig. 3). A plurality of pavilion main facets where each pavilion main facet extends from near the culet to the girdle (Figs. 2 and 3). The pavilion main facets vary in width (Figs. 2 and 3). The stone is a round cut (Figs. 1-3).

Mehta also disclose that the stone further comprises a table on the crown (Figs. 1 and 3). The crown has a plurality of bezel facets (Figs. 1 and 3). Each of the bezel facets has an upper vertex at the table and a lower vertex at the girdle (Figs. 1 and 3). The pavilion main facets terminate in an upper vertex at the girdle in substantial alignment with the lower vertex of a corresponding bezel facet of the crown (Fig. 3).

A method for cutting a stone comprises: (a) forming a crown portion (Fig. 1); (b) forming a pavilion portion including a culet (Fig. 2); (c) forming a girdle separating the crown portion from the pavilion portion (Fig. 3); and (d) forming a plurality of pavilion main facets on the pavilion portion (Fig. 2 and 3). The pavilion main facets vary in thickness (Figs. 2 and 3). Each pavilion main facet extends from near the culet to the girdle (Figs. 2 and 3). The stone is a round cut (Figs. 1-3).

4. Claims 3, 7, 16, 21 and 22 are rejected under 35 U.S.C. 102^b ^{from} as being anticipated by Fine (US D141,259).

A cut stone comprises a pavilion portion having a culet (Fig. 2), a crown portion having a table (Fig. 1) and a girdle separating the pavilion portion from the crown

portion (Fig. 3). A plurality of pavilion main facets where each pavilion main facet extends from near the culet to the girdle (Figs. 2 and 3). The pavilion main facets vary in width (Figs. 2 and 3). The stone is a round cut (Figs. 1-3).

Mehta also disclose that the stone further comprises a table on the crown (Figs. 1 and 3). The crown has a plurality of bezel facets (Figs. 1 and 3). Each of the bezel facets has an upper vertex at the table and a lower vertex at the girdle (Figs. 1 and 3). The pavilion main facets terminate in an upper vertex at the girdle in substantial alignment with the lower vertex of a corresponding bezel facet of the crown (Fig. 3).

A method for cutting a stone comprises: (a) forming a crown portion (Fig. 1); (b) forming a pavilion portion including a culet (Fig. 2); (c) forming a girdle separating the crown portion from the pavilion portion (Fig. 3); and (d) forming a plurality of pavilion main facets on the pavilion portion (Fig. 2 and 3). The pavilion main facets vary in thickness (Figs. 2 and 3). Each pavilion main facet extends from near the culet to the girdle (Figs. 2 and 3). The stone is a round cut (Figs. 1-3).

A cut stone comprises a pavilion portion having a culet (Fig. 2), a crown portion having a table (Fig. 1) and a girdle separating the pavilion portion from the crown portion (Fig. 3). A plurality of pavilion main facets extends from near the culet towards the girdle (Figs. 2 and 3). A plurality of lower girdle facets positioned between adjacent pavilion main facets. The pavilion main facets vary in width (Figs. 2 and 3). The stone is a round cut (Figs. 1-3).

A method for cutting a stone comprises: (a) forming a crown portion (Fig. 1); (b) forming a pavilion portion including a culet (Fig. 2); (c) forming a girdle separating the

crown portion from the pavilion portion (Fig. 3); (d) forming a plurality of pavilion main facets on the pavilion portion where the pavilion main facets vary in thickness (Figs. 2 and 3); and (e) forming a plurality of lower girdle facets between adjacent pavilion main facets on the pavilion portion (Fig. 2 and 3). The stone is a round cut (Figs. 1-3).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mehta in view of Freund (US D 488,740 S).

Mehta discloses a stone having all the features mentioned above in paragraph 3 for the rejection of claim 3. The stone further comprises a table on the crown. The table has a plurality of sides. Mehta fails to disclose that the number of pavilion main facets equals the number of sides of the table. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have the number of pavilion main facets equaling the number of sides of the table since this change is considered a design consideration in the jewelry art. As taught by Freund, the number of sides of the table can coincide with the number of the pavilion main facets in order to obtain a different appearance of a stone.

Response to Arguments

7. Applicant's arguments with respect to claims 3-7, 16-18, 21 and 22 have been considered but are moot in view of the new ground(s) of rejection. See attachment No. 1 for explanation of how Mehta '083 meets limitations of claims 3-5, 7 and 16-18.

8. Applicant's arguments filed 31 August 2005 have been fully considered but they are not persuasive. The Applicant argues that Mehta '014 fails to disclose that each pavilion main facet extends from near the culet to the girdle and that the pavilion main facets vary in width. The Examiner fails to be persuaded by this argument. See attachment No. 2 for explanation on how Mehta '014 meets limitations of claims 3 and 16. Especially since the claim is not establishing a width for the pavilion main facets but rather recite that "the pavilion main facets vary in width" and the pavilion main facets disclosed by Mehta '014 vary in width by having a smaller width at the lower vertex near the culet that increases to a distance between the culet and the girdle and then decreases to a smaller width at the upper vertex in the girdle. Therefore, Mehta '014 meets the limitations of claims 3 and 16.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Kraus (US D59,234), Heller (US D140,283), Fine (US D141,258 and US D141,259), Westreich (US D204,199), Polakiewicz (US 3,763,665), Bachar (US D392,590), Itzkowitz (US 5,713,219), Fajerstein (US D437,671), Cheng (US D453,120), Tolkowsky (US D455,367), Rydlewicz (US D459,676), Kagaya (US D460,378), Cohen (US D460,711), Greeff (US D463,315), Tolkowsky (US D483,290), Markowitz (US 6,668,585) and Mehta (US D490,014) are cited to show state of the art with respect to cut stones having some of the features being claimed by the current application.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ruth C Rodriguez whose telephone number is (571) 272-7070. The examiner can normally be reached on M-F 07:15 - 15:45.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on (571) 272-7075.

Submissions of your responses by facsimile transmission are encouraged. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-6640.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ruth C. Rodriguez
Patent Examiner
Art Unit 3677

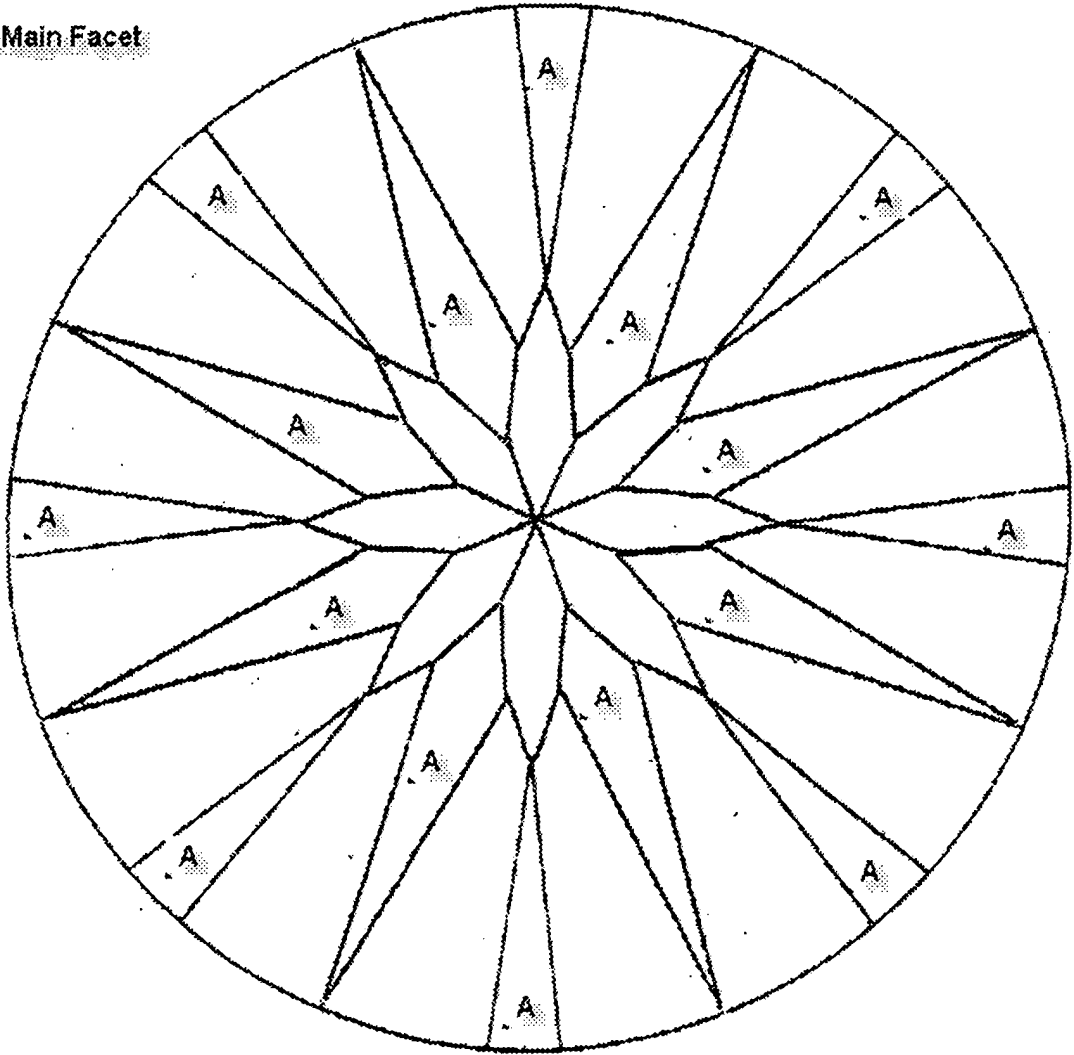
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November 9, 2005


Katherine Mitchell
Primary Examiner

Attachment No. 1

A - Pavilion Main Facet



Art Unit: 3677

Attachment No. 2

A - Pavilion Main

Facet

B - Lower Girdle

Facet

